

# NATIONAL COMPLIANCE INITIATIVES

## ISSUE SUMMARY:

EPA focuses its enforcement and compliance assurance resources on the most serious environmental problems by developing and implementing national program priorities, called [National Compliance Initiatives \(NCIs\)](#). The NCIs are in addition to the EPA's core enforcement work.

## UPCOMING MILESTONES:

- No major upcoming decision points, actions, or milestones at this time.

## BACKGROUND:

EPA focuses its enforcement and compliance resources on the most serious environmental problems by developing and implementing national program priorities, called National Compliance Initiatives (NCIs).<sup>1</sup> EPA's NCIs focus federal enforcement and compliance resources to advance the Agency Strategic Plan's objectives to improve air quality, provide for clean and safe water, ensure chemical safety, and improve compliance with our nation's environmental laws while enhancing shared accountability between the EPA and states and tribes with authorized environmental programs.

EPA reviews the NCIs periodically to determine whether to conclude, continue, or modify an NCI. The selection of the FY2020-2023 NCIs was informed by outreach to states and tribes. EPA also solicited public input through a Federal Register notice.<sup>2</sup> These selected initiatives are:

- **Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants**
  - People living in non-attainment areas or in communities that are near sources of harmful air pollution may face significant risks to their health and environment. This NCI focuses on noncompliance that results in excess emissions of either volatile organic compounds or hazardous air pollutants, especially where emissions may adversely affect an area's attainment of National Ambient Air Quality Standards or may adversely affect vulnerable populations.
- **Stopping Aftermarket Defeat Devices for Vehicles and Engines**
  - Numerous companies manufacture and sell hardware and software specifically designed to defeat required emissions controls on vehicles and engines. Illegally-modified vehicles and engines contribute substantial excess pollution that harms public health and impedes efforts to attain air quality standards. This NCI focuses on stopping the manufacture, sale, and installation of defeat devices on vehicles and engines used on public roads as well as on nonroad vehicles and engines.
- **Reducing Hazardous Air Emissions from Hazardous Waste Facilities**
  - Widespread air emission violations are associated with the improper management of hazardous waste. RCRA air emission standards establish performance, design, operation, monitoring and maintenance requirements and potentially apply to certain process vents, equipment, tanks, containers, and surface impoundments at specific facilities that manage organic hazardous wastes. This NCI focuses on improving compliance with regulations that require the control of organic air emissions from certain hazardous waste management units and activities.

<sup>1</sup> To better convey the message that increased compliance is the goal, and enforcement actions are not the only tool for achieving this goal, the EPA changed the name of its priorities from National Enforcement Initiatives to National Compliance Initiatives in 2018.

<sup>2</sup> Public Comment on EPA's National Compliance Initiatives for Fiscal Years 2020–2023, 84 Fed. Reg. 2,848 (February 8, 2019).

- **Reducing Risks of Accidental Releases at Industrial and Chemical Facilities**

- Thousands of facilities nationwide make, use, and store extremely hazardous substances. Catastrophic accidents at these facilities—historically about 150 each year—can result in fatalities and serious injuries, evacuations, and other harm to human health and the environment. This NCI focuses on decreasing the likelihood of chemical accidents and reducing risk to communities.

- **Reducing Significant Non-Compliance with National Pollutant Discharge Elimination System (NPDES) Permits**

- Over 29% of the 46,000 individually NPDES-permitted facilities in the country were in significant noncompliance (SNC) with their permits in FY2018. Violations range from significant exceedances of effluent limits, which can cause harm to human health and the environment, to failure to submit monitoring reports, which can mask serious deficiencies. This NCI aims to reduce by half the number of permittees in SNC by the end of FY 2022 and ensure that the worst SNC violators are timely and appropriately addressed.

- **Reducing Non-Compliance with Drinking Water Standards at Community Water Systems**

- There are approximately 50,000 regulated drinking water systems that serve water to the same people year-round, referred to as Community Water Systems (CWSs). In FY 2018, 40% of the nation's CWSs violated at least one drinking water standard. In addition, there were monitoring and reporting violations at more than 30% of CWSs, and health-based violations at 7% of CWSs. This NCI aims to ensure clean and safe water by improving compliance at CWSs regulated under the Safe Drinking Water Act. The NCI also establishes a goal to develop a sustainable drinking water compliance assurance and enforcement programs in every EPA region to support our shared accountability with state primacy agencies and Regions' direct implementation responsibilities in ensuring clean and safe water and to better serve all Americans.

The NCIs represent a significant portion of OECA's inspection and enforcement work. Nationally in FY2020, 20% of all on-site inspections were NCI-inspections, and 26.5% of all civil judicial conclusions were under the NCIs.

#### KEY EXTERNAL STAKEHOLDERS:

- ☐ Congress      ☐ Industry      ☒ States      ☒ Tribes      ☐ Media      ☐ Other Federal Agency  
☐ NGO      ☐ Local Government      ☐ Other (name of stakeholder) \_\_\_\_\_

States and tribes are co-regulators in many of the NCI subject areas.<sup>3</sup> While NCIs are intended to address widespread noncompliance problems, such problems may not be present in each jurisdiction nor a priority for each state. States are not obligated to participate in NCIs, although EPA welcomes their participation. EPA is expected to take the lead in some of the specific enforcement actions identified as NCI actions to apply and maintain its expertise, to ensure consistency, and to promote a level playing field, while at the same time inviting individual states to join in a judicial case as it relates to facilities in that state. If a state proposes to take the lead in an NCI case, the EPA generally defers to a state that agrees to seek compliance and enforcement outcomes consistent with EPA-led resolutions elsewhere in the nation.<sup>4</sup>

#### MOVING FORWARD:

Enforcement and compliance assurance work is underway in all of the NCIs, including on-site inspections, off-site compliance monitoring, compliance assistance activities (e.g., webinars, Compliance Advisories, and Enforcement Alerts), as well as case initiations and conclusions.

LEAD OFFICE/REGION: OECA      OTHER KEY OFFICES/REGIONS: ALL REGIONS

<sup>3</sup> Enforcement of the CAA prohibitions on aftermarket defeat devices is not delegable to the states or tribes. This NCI will nevertheless focus on building capacity at the state level so states may use complementary state authority to help prevent tampering and aftermarket defeat devices.

<sup>4</sup> See Memorandum from Assistant Administrator, Susan Parker Bodine, "Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work" (July 11, 2019).